

FILED MAR 13 2009 USDC OR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN TIMOTHY MORGAN,)
Plaintiff,) Civ. No. 08-3105-CL
v.)
INTERFOR PACIFIC, Inc.,) ORDER
Defendant.)

)

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation on December 17, 2008. The matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been timely filed, this court still must review the legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (9th Cir. 1983). I find no error. Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#13) is adopted. Plaintiff lost his right to sue on the state law grounds on September 4, 2008, and as a result, his filing of a suit on the following day of September 5, 2008 is barred because he did not comply with procedure set forth in the statute and explained in his BOLI letter. Plaintiff has given no persuasive reason to justify an equitable tolling of this period. Defendant's motion for summary judgment is granted.

IT IS SO ORDERED.

DATED this 13 day of March, 2009.



OWEN M. PANNER
U.S. DISTRICT JUDGE